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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,135	01/03/2005	Ermanno Taboga	APV31845	9501

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EXAMINER
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FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/520,135	TABOGA, ERMANNO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles A. Fox	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050628, 20050407 &amp; 20050103</u> .                       | 6) <input type="checkbox"/> Other: ____.                          |

***Information Disclosure Statement***

The information statement filed on June 28, 2005 was a copy of the IDS filed on January 3, 2005. As such all references have been lined through as they are redundant. The applicant is only required to submit a reference one time.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the auxiliary guide means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: there is no disclosure as to what constitutes an auxiliary guide means. Appropriate correction is required. No new matter should be entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for auxiliary guide means, does not reasonably provide enablement for what this element may be comprised of. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to build the invention commensurate in scope with these claims. In the art cited below the rotatable wheels taught by Fujii et al. meet the very vague limitations of claim 16 as written. But since the intended scope of the claim cannot be ascertained at this time by the examiner no art rejections have been made. Clarification of the claims, specification and drawings is required regarding this matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not exactly clear how the 180° for the second segment is determined. As the device turns over an item (180°) this is how the claim is being treated below as best understood by the examiner.

Claim 5 recites the limitation "said first segment and part of said second segment" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "an initial zone of said first segment" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The attachment means does not prevent the panel from turning, but rather makes the conveying section unidirectional, which is how the claim is treated by the examiner. Clarification is required.

Claim 18 recites the limitation "the cycle" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 18-20 provides for the use of a turn over device, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. It is not clear what step must be performed to meet the limitations of claims

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18-20. A positive action verb such as "positioning, moving, locating" and so forth should be used to make clear what step needs to be performed. Without an actual step the method claims are indefinite.

Claims 18-20 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). In the rejection of claims 18-20 the art is applied as best understood by the examiner.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bensberg et al. Regarding claim 1 Bensberg et al. US 5,078,260 discloses a device for stacking articles in an alternate orientation, comprising:

expulsion means for moving the items from a process device onto an accumulation plane;

turnover means (4) to turn over every other item as they exit said process device;

a discharge means (6) to discharges a stack of said items;

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switching means (5) to divert every other item onto the turnover means and all other items to said accumulation means in their original orientation.

Regarding claim 2 Bensberg et al. also discloses that the turnover means substantially turns the items by 180° before placing them on the accumulation plane via a guide means.

Regarding claim 3 Bensberg et al. also discloses a first inclined rectilinear segment of the guide followed by a second curved segment of approximately 180°, which delivers inverted items to the accumulation plane.

Regarding claims 5 and 7 Bensberg et al. further disclose conveyor means to move said item along the two segments of the turnover means, wherein said conveyor is a shaped belt.

Regarding claim 9 Bensberg et al. also disclose the turnover means as having a second expulsion means (8) for moving inverted items onto the accumulation plane.

Regarding claim 10 Bensberg et al. also discloses said switching means comprises a board for directing an object to the accumulation plane or to the turnover means.

Claims 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gott et al. Regarding claim 17 Gott et al. US 3,307,715 discloses a method of stacking metal mesh panels comprising the steps:

- positioning at least one panel in an accumulation plane;

- turning over at least every other panel such that every other mesh panel in the accumulation plane is inverted by 180°;

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wherein every other panel is either placed directly onto said accumulation plane or inverted by a turn over means and then placed on said accumulation plane.

Regarding claim 18 Gott et al. '715 further discloses providing a plurality of panels such that a continuous supply is provided to the turnover means.

Regarding claim 20 Gott et al. '715 also discloses the step of stacking the panels in alternating orientation such that an overturned panel is placed onto a straight panel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bensberg et al. as applied to claim 5 above, and further in view of Bailey. Bensberg et al. teaches the limitations of claim 5 as above, they do not teach the type of conveyor used to present the items to the stacking device. Bailey US 2,553,029 teaches a conveyor for metal panels wherein said conveyor is a chain type conveyor. It would have been obvious at the time of invention to provide the device taught by Bensberg et al. with a chain conveyor as taught by Bailey in order to provide a more robust conveyor capable of handling heavy articles without being damaged by the articles.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bensberg et al. as applied to claim 2 above, and further in view of Smock. Bensberg et al.



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teaches the limitations of claim 2 as above, they do not teach unidirectional dogs on the conveying section. Smock US 4,282,970 teaches a conveying system (10) with a reciprocating assembly for conveying an item, wherein at least one dog (31) is provided to allow the item to move in only one direction along the conveyor. It would have been obvious at the time of invention to provide the device taught by Bensberg et al. with dogs as taught by Smock in order to insure that items move in only one direction along a feed path.

Claims 11 and 12 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Bensberg et al. as applied to claim 1 above, and further in view of Ogawa et al. Bensberg et al. teaches the limitations of claim 1 as above, they do not teach the expulsion means for the manufacturing device. Ogawa et al. US 5,921,127 teaches a conveying device for metal sheets comprising:

- a frame (not numbered);

- a plurality of rollers (4) mounted on said frame;

- said rollers arranged on an upper and a lower side of the plane of travel of the sheets such that they advance the sheets along a predetermined path;

- wherein said rollers have an inactive position where at least one roller is distant from the plane of travel along the predetermined path and an active position where the roller touch the sheets;

- an actuator for moving the rollers between the active and inactive positions.

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It would have been obvious at the time of invention to provide the device taught by Bensberg et al. with pinch rollers as taught by Ogawa et al. in order to move a sheets along a predetermined path as needed by an operator.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gott et al. Gott et al. does not teach the time it takes for their device to stack a panel, however the time taken to effect an operation is not a patentable feature when used to increase production or the like. As such it would have been obvious at the time of invention to run the device as fast as possible in order to increase production or the stacking device, thereby allowing the machine producing the mesh to operate at a higher rate.

Claims 13-15 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Bensberg et al. as applied to claim 1 above, and further in view of Fujii et al. Bensberg et al. teaches the limitations of claim 1 as above, they do not teach a discharge means with a rotatable device for holding the panels prior to stacking. Fujii et al. US 5,665,197 teaches a device for turning over and stacking panels, wherein said panels are held by rotatable members (116a,b) that selectively rotate in order to lower panels onto an accumulation plane, they also teach the turnover means being located above the accumulation plane. It would have been obvious at the time of invention to provide the device taught by Bensberg et al. with discharge wheels as taught by Fujii et al. in order to hold the panels above an accumulation plane until the proper time for lowering them onto the stack has come.

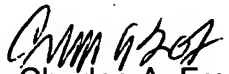
The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Webers et al. 1970 and Karhumaki 2000.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 573-272-6923. The examiner can normally be reached on Mon-Thurs 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 573-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 6-27-07  
Charles A. Fox  
Primary Examiner  
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